as it can be done constitutionally, only as to such questions as to which the error was committed, and the appellate courts should have power to take additional evidence so far as they can be given that power (page 105.)

"'Rule 7. The provisions for the satisfaction of a judgment should be such as to afford a prompt and effective enforcement of the judgment (page 107).'

"Our position has always been that the Code should either be very radically revised or not revised at all. In spite of its inordinate length, its assuming to regulate trivial details of practice with the solemn force of law, its higgledy-piggledy arrangement and interpolations—with all its unscientific and burdensome character—it has now been made approximately certain by practice decisions and attempts merely to patch it up would result only in new doubts. From this point of view a misgiving might be caused by Judge Rodenbeck's statement that 'a total repeal of the present system would be demoralizing. It would be unwise to adopt a practice act not based upon the present Code.' If by this it is meant that nomenclature and the general course of procedure prescribed by the present Code should not be departed from arbitrarily and merely for the sake of change, we concur. It is believed, however, that in the course of any revision in cases of doubt the leaning should be towards regulation by rules of court and not by statute.

"Hon. Elihu Root, President of the New York State Bar Association, pursuant to a resolution of that association, has appointed a committee to consider the subject, consisting of Judge Rodenbeck, John G. Milburn, William B. Hornblower, Adelbert Moot and Charles A. Collin, who, it is expected, will inaugurate some plan for advancing the work. Co-operation is solicited and suggestions may be sent to Frederick E. Wadhams, Albany, New York, secretary of the association. It is believed that co-operation and suggestions from members of the Bar, whether members of the New York State Bar Association or not, will be welcome. Judge Rodenbeck's pamphlet is certainly a valuable contribution to the literature of the subject and will amply repay perusal. His argument for the abrogation of the distinction between actions and special proceedings, for example, is cogent and convincing. Many of the features of the proposed rules above quoted have in one form or other already been much discussed during the agitation for reform in practice, now covering many years, but which has been growing more insistent and imperative during the past three or four years. Judge Rodenbeck closes with an appeal to the Bar to forego its temperamental and habitual conservatism and and to join heartily in a movement to remedy what everyone concedes to be a great evil." R. H. G.

Reform of Judicial Procedure in Oregon.—At the general election of 1910, a constitutional amendment containing the following provision was adopted by the voters of Oregon:

"In actions at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of this State, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the Supreme Court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the

decision of the appeal. If the Supreme Court shall be of the opinion, after consideration of all the matters thus submitted, that the judgment of the court appealed from was such as should have been rendered in the case, such judgment shall be affirmed, notwithstanding any error committed during the trial; or if, in any respect, the judgment appealed from should be changed, and the Supreme Court shall be of opinion that it can determine what judgment should have been entered in the court below, it shall direct such judgment to be entered in the same manner and with like effect as decrees are now entered in equity cases on appeal to the Supreme Court. Provided, that nothing in this section shall be construed to authorize the Supreme Court to find the defendant in a criminal case guilty of an offense for which a greater penalty is provided than that of which the accused was convicted in the lower court."

Commenting on this provision the editor of the *Central Law Journal* says:

"The power and the duty devolved upon the Supreme Court to dispose finally of causes on appeal is stated very explicitly. It lies in the hands of either party desiring to put an end to a case taken on appeal to secure the exercise of that power. In granting this privilege it is seen that the Constitution of Oregon recognizes very clearly that, as a record can show in absolute perfection everything that occurred in the trial court, there is no necessity for clinging with unreasoning tenacity to the old doctrine of the trial court's superior ability to dispose of questions of fact. Recession from this doctrine we have been persistently urging." J. W. G.

Mr. Hitch on Proposed Improvement in Procedure.—Robert M. Hitch, Esq., of Savannah, in his paper before the Georgia Bar Association on "Procedure in Courts of Original Jurisdiction," comments as follows: "The chief complaints against our system of procedure are that it is slow, uncertain, expensive and ineffective. Two recent criminal cases suggest a very illuminating comparison. I refer to the case against Dr. Crippen in the English courts and the case against Dr. Hyde in the courts of Missouri.[1] The former was calculated to create a wholesome respect for the law. The trial of Dr. Hyde was commenced on April 16th in Kansas City, a verdict of guilty was rendered on May 16th, one month later, his motion for a new trial was overruled on July 5th, his appeal was heard on February 6th, and recently a new trial was granted and everything is to be gone over again. That procedure is calculated to create disrespect for the law."

The most serious complaint is against the administration of our criminal law. "Some of the evils relate to the technical machinery of administration, while others extend to the grand jury room, the petit jury box and the sheriff's office. It sometimes occurs that sheriffs are derelict in the performance of their duties. While the governor is supposed to see that the laws are executed, neither he nor any other official has any control whatever over the sheriff. Frequently the grand juries fail to indict and the petit juries fail to convict when indictment and conviction would seem to be inevitable. The trouble here is that we have state prohibition as to the commission of crimes and local option as to the punishment for crimes committed. The system is illogical and inconsistent. Either the county commissioners of the several counties should be

[1]See this Journal, Vol. II., No. 3, 435 ff.